

1 Repeal 2 Cal. Code Regs. Section 18704.5:

2 **~~§ 18704.5. Public Identification of a Conflict of Interest for Section 87200 Filers.~~**

3 ~~(a) Section 87105 and this regulation apply when a public official who holds an office~~
4 ~~specified in Section 87200 has a financial interest in a decision within the meaning of Section~~
5 ~~87100, and the governmental decision relates to an agenda item which is noticed for a meeting~~
6 ~~subject to the provisions of the Bagley-Keene Act (Section 11120 et seq.) or the Brown Act~~
7 ~~(Section 54950 et seq.).~~

8 ~~(b) Content & Timing of Identification: The public official shall, following the~~
9 ~~announcement of the agenda item to be discussed or voted upon but before either the discussion~~
10 ~~or vote commences, do all of the following:~~

11 ~~(1) The public official shall publicly identify:~~

12 ~~(A) Each type of economic interest held by the public official which is involved in the~~
13 ~~decision and gives rise to the conflict of interest (i.e. investment, business position, interest in~~
14 ~~real property, personal financial effect, or the receipt or promise of income or gifts), and~~

15 ~~(B) The following details identifying the economic interest(s):~~

16 ~~(i) if an investment, the name of the business entity in which each investment is held;~~

17 ~~(ii) if a business position, a general description of the business activity in which the~~
18 ~~business entity is engaged as well as the name of the business entity;~~

19 ~~(iii) if real property, the address or another indication of the location of the property,~~
20 ~~unless the property is the public official's principal or personal residence, in which case,~~
21 ~~identification that the property is a residence;~~

22 ~~(iv) if income or gifts, then identification of the source; and~~

1 ~~(v) if personal financial effect, then identification of the expense, liability, asset or~~
2 ~~income affected.~~

3 ~~(2) Form of Identification: If the governmental decision is to be made during an open~~
4 ~~session of a public meeting, the public identification shall be made orally and shall be made part~~
5 ~~of the official public record.~~

6 ~~(3) Recusal/Leaving the Room: The public official must recuse himself or herself and~~
7 ~~leave the room after the identification required by subdivisions (b)(1) and (b)(2) of this~~
8 ~~regulation is made. He or she shall not be counted toward achieving a quorum while the item is~~
9 ~~discussed.~~

10 ~~(c) Special Rules for Closed Session: If the governmental decision is made during a~~
11 ~~closed session of a public meeting, the public identification may be made orally during the open~~
12 ~~session before the body goes into closed session and shall be limited to a declaration that his or~~
13 ~~her recusal is because of a conflict of interest under Section 87100. The declaration shall be~~
14 ~~made part of the official public record. The public official shall not be present when the decision~~
15 ~~is considered in closed session or knowingly obtain or review a recording or any other non-~~
16 ~~public information regarding the governmental decision.~~

17 ~~(d) Exceptions:~~

18 ~~(1) Uncontested Matters: The exception from leaving the room granted in Section~~
19 ~~87105(a)(3) for a "matter [that] has been placed on the portion of the agenda reserved for~~
20 ~~uncontested matters" shall mean agenda items on the consent calendar. When the matter in which~~
21 ~~the public official has a financial interest is on the consent calendar, the public official must~~
22 ~~comply with subdivisions (b)(1) and (b)(2) of this regulation, and recuse himself or herself from~~

1 ~~discussing or voting on that matter, but the public official is not required to leave the room~~
2 ~~during the consent calendar.~~

3 ~~(2) Absence: If the public official is absent when the agenda item subject to subdivision~~
4 ~~(a) of this regulation is considered, then Section 87105 and this regulation impose no public~~
5 ~~identification duties on the public official for that item at that meeting.~~

6 ~~(3) Speaking as a Member of the Public Regarding an Applicable Personal Interest:~~
7 ~~When a personal interest found in Regulation 18702.4(b) is present, a public official may speak~~
8 ~~as a member of the general public if he or she complies with subdivisions (b)(1) and (b)(2) of~~
9 ~~this regulation, recuses himself or herself from voting on the matter and leaves the dais to speak~~
10 ~~from the same area as the members of the public. He or she may listen to the public discussion of~~
11 ~~the matter with the members of the public.~~

12 ~~Comment: Nothing in the provisions of this regulation is intended to cause an agency or~~
13 ~~public official to make any disclosure that would reveal the confidences of a closed session or~~
14 ~~any other privileged information as contemplated by law including but not limited to the~~
15 ~~recognized privileges found in Regulation 18740.~~

16 ~~Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87105 and~~
17 ~~87200, Government Code.~~